IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor	:	MARKS, Daniel L.
Serial No.	:	11/510,463
Confirmation No.	:	6778
Filed	:	August 24, 2006
For	:	REAL TIME COMMUNICATIONS SYSTEM
Group Art Unit	:	2452
Examiner	:	WINDER, Patrice L.

The Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

JOINT DECLARATION OF PROFESSORS CHANDRAJIT BAJAJ AND LEE HOLLAAR

S I R :

We have personal knowledge of the subject matter of this declaration, and if called as a witness, would testify thereto.

A. A declarant herein is Dr. Chandrajit Bajaj, a Computational Applied Mathematics Chair in Visualization, Professor of Computer Sciences, and Director of the Center for Computational Visualization at the Institute of Computational Engineering and Sciences, University of Texas at Austin, where he has been a faculty member since 1997, the same Chandrajit Bajaj who executed a declaration previously for this patent application, dated July 14, 2011.

B. A declarant herein is Dr. Lee A. Hollaar, a Professor of Computer Science in the School of Computing at the University of Utah, where I have been a faculty member since 1980. Prior to that, I was a faculty member at the University of Illinois at Urbana-Champaign. I received my Ph.D. in Computer Science from the University of Illinois at Urbana-Champaign in 1975. I am also a Registered Patent Agent, the same Lee Hollaar who executed a declaration previously for this patent application, dated March 12, 2012.

C. The declaration of Dr. Chandrajit Bajaj was filed with the Patent Office, in the above-identified patent application, on August 1, 2011. Thereafter, an interview was conducted on November 17, 2011. The interview included Professors Bajaj and Hollaar, patent counsel Peter Trzyna, Supervisor Thu Nguyen, and Examiner Patrice Winder. After Professor Hollaar's

declaration was submitted, and after the Notice of Appeal was filed, the Examiner issued an Interview Summary on July 19, 2012.

D.   We participated in the interview, and we have reviewed the Examiner's Interview Summary, and we know that the Interview Summary mischaracterizes what took place during the interview in which we both participated. This declaration is respectfully submitted to document what took place during the interview of November 17, 2011.

F.   At the outset, it should be noted that as senior professors of computer science, we have extensive experience in our fields. As active researchers at the time of the Marks invention, we are well aware of the work relevant to that invention. Furthermore, as teachers, we are have a unique understanding a "person of ordinary skills in the art," since we were training them. Our backgrounds are set out in the declarations we each have previously submitted in this application.

G.   During the commencing of the interview, Mr. Trzyna stated the purposes of the interview that he had requested. The purposes were to (1) provide the Examiner with an opportunity to, in effect, interview the prior art, i.e., Shastra, to ensure that the Examiner understood Shastra, and to answer any questions the Examiner might have, and also (2) to explain why it would not have been obvious to combine or modify Shastra as proposed by the Patent Office.

H.   The discussion focused on the following claim feature.

"a controller computer and a database which serves as a repository of tokens for other programs to access, thereby affording information to each of the participator computers which are otherwise independent of each other ..."

I.   During the interview, Dr. Bajaj provided a background of Shastra, including its origination and purpose which is, as the Dissertation of his PhD student is titled, "Collaborative Multimedia Environments for Problem Solving."

J.   The discussion was not only that, as a factual matter, Shastra did not have the claim feature, but also that having that feature in Marks would not have been contemplated.

K.   The Interview Summary is a mischaracterization because it does not reflect the focus on the lack of motivation to combine or modify Shastra. Dr. Bajaj provided a detailed explanation addressing reasons why the claim feature was non-essential to the titled purpose of the Shastra system. As stated in the interview, consistent with the declaration of Dr. Bajaj, and also consistent with the declaration of Dr. Hoffaar, it was abundantly clarified that that a major change in the solution would have been required for the Shastra system to perform the claimed feature.

L.   The Patent Office's suggested modification of Shastra would require a substantial reconstruction and redesign of the elements in Shastra, as discussed in the interview, would have required a changed approach to accommodate the database structure. This was definitely not obvious to those working on the project, including those with extraordinary skill in the art.

M.   Since the interview, we have reviewed the Examiner's statements in the Office Action dated page 5:1/11/12: "Applicant has not pointed to anything specific in disclosed information that speculates or forecasts the utility of the Shastra system. Therefore, the affidavit is insufficient to support the assertion that the Shastra system would not provide motivation to incorporate a "control

computer database serves as a repository of tokens for other programs to access, thereby affording information to otherwise independent computer systems".

N.   Of course the code and Dissertation cannot prove the negative.

O.   Examiner Winder questioned the database structure and persistence of the data, but did not question or dispute anything about the discussion of the lack of a reason to modify the Shastra system.

P.   Recently, we have again reviewed the reasons that Examiner provided as a motivation to combine or modify Shastra. In the Office Action dated 3/17/2012, at page 6, the Examiner adds: "Shastra needs to incorporate images from other collaborators. Distview provides a mechanism for importing/exporting images (i.e., files) while collaborating." However, Shastra could already incorporate images from other collaborators, so this reason would have provided no motivation whatsoever to make the modification.

Q.   We, as professors, know that this would have had nothing to do with motivating one to modify Shastra to have the Marks claim feature. Any computer program can, with sufficient motivation and direction, be modified to have some other capability. The fact that Shastra could have been modified to have the claim feature, like any other computer program, does not mean that there was some known or recognized motivation to do so prior to Marks, and none was expressed even by those involved having extraordinary skill in the art.
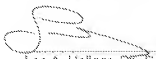
R.   During the interview, Examiner Winder was asked whether she had any further questions, and she said that she did not.

S.   We each hereby declare that all statements made herein are of our own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.

Date: _____11/27/2012_____

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Chandrajit Bajaj, Ph.D.

Date: _____1/27/2012_____

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Lee A. Hollaar, Ph.D.

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